



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2016-0054; FRL- 9951-22-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Maryland; Control of Emissions from Various Processes and Fuel-Burning Equipment
from Kraft Pulp Mills**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting conditional approval of a state implementation plan (SIP) revision submitted by the Maryland Department of the Environment (MDE). The revisions adds and amends regulations in the SIP which control emissions from various processes and fuel-burning equipment at Kraft pulp mills. The SIP revision includes the following: a new definition for “NO_x Ozone Season Allowance;” a new regulation with nitrogen oxides (NO_x) limits for fuel-burning equipment located at Kraft pulp mills; a removal and relocation of existing NO_x reasonably available control technology (RACT) requirements for Kraft pulp mills into another Maryland regulation; and a revised regulation which clarifies the volatile organic compound (VOC) control system and emission requirements for several process installations at Kraft pulp mills. EPA is granting conditional approval because the new Maryland definition references the defunct Clean Air Interstate Rule (CAIR) and because MDE provided a commitment to remove all references to CAIR within the definition of “NO_x Ozone Season Allowance” and submit a revised definition as a new SIP revision, no later than a year from EPA finalizing this conditional approval. Upon timely meeting of this commitment, EPA will propose to convert the conditional approval of the SIP revision to a final, full approval. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R03-OAR-2016-0054. All documents in the docket are listed on the [http:// www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814 2036, or by e-mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 20, 2016 (81 FR 31887), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. In the NPR, EPA proposed to grant conditional approval of revisions to regulations in Maryland’s SIP which control emissions from various processes and fuel-burning equipment at Kraft pulp mills. The formal SIP revision (14-04) was submitted by MDE on October 15, 2014.

II. Summary of SIP Revision

MDE’s SIP revision adds and amends regulations in order to control emissions from various

processes and fuel-burning equipment at Kraft pulp mills. The SIP revision adds a definition for “NOx Ozone Season Allowance” and establishes applicability, compliance requirements, monitoring and reporting requirements, allowances, and NOx emission standards and limits for Kraft pulp mills. The SIP revision also removes subsection (C)(h) of the Code of Maryland Regulations (COMAR) 26.11.09.08 from the Maryland SIP because the NOx requirements for pulp mills have been relocated to COMAR 26.11.14.07. The SIP revision clarifies the VOC control system and requirements for several process installations at Kraft pulp mills.

Other specific requirements of the SIP revision and the rationale for EPA’s action to grant conditional approval are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is granting conditional approval of Maryland’s October 15, 2014 SIP revision concerning the regulations and requirements to control NOx and VOC emissions from various processes and fuel-burning equipment at Kraft pulp mills as it strengthens the SIP with provisions related to controlling emissions of NOx and VOC. The conditional approval is contingent upon MDE’s September 29, 2015 commitment to remove references to the now defunct CAIR CAA allowance trading program within the definition of “NOx Ozone Season Allowance,” at COMAR 26.11.01.01 and replace with another allowance mechanism. Once EPA has determined that MDE has satisfied this condition and EPA approves the revised definition, EPA shall remove the conditional nature of its approval and this SIP revision will at that time receive full approval status.

IV. Incorporation by Reference

In this rule, with our conditional approval, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing, with our conditional approval, the incorporation by reference of revisions to COMAR 26.11.01.01, COMAR 26.11.14.07, COMAR 26.11.09.08, and COMAR 26.11.14.06. Therefore, these materials have been conditionally approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.¹ EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and/or at the EPA Region III Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

¹ 62 FR 27968 (May 22, 1997).

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action pertaining to the regulations and requirements for the control of emissions from various processes and fuel-burning equipment from Kraft pulp mills, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 12, 2016.

Shawn M. Garvin,
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V—Maryland

2. In § 52.1070, paragraph (c) table is amended by revising the entries for “26.11.01.01”, “26.11.09.08”, “26.11.14.06”, and adding in numerical order the entry for “26.11.14.07” to read as follows:

§ 52.1070 Identification of plan.

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(c) * * *

EPA—APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
26.11.01 General Administrative Provisions				
26.11.01.01	Definitions	03/03/14	[<u>Insert date of publication in the Federal Register publication</u>] [<u>Insert Federal</u>	Revised definition of “NO _x Ozone Season Allowance” and Conditional Approval of definition of “Nox Ozone Season

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
			<u>Register citation]</u>	Allowance”
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26.11.09 Control of Fuel Burning Equipment, Stationary Internal Combustion Engines, and Certain Fuel-Burning Installations				
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26.11.09.08	Control of NOx Emissions for Major Stationary Sources	03/03/14	[Insert date of publication in the Federal Register publication] [Insert Federal Register citation]	Removed and relocated existing NOx RACT requirements under COMAR 26.11.14.07. Conditional Approval.
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26.11.14 Control of Emissions From Kraft Pulp Mills				
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26.11.14.06.	Control of Volatile Organic Compounds	03/03/14	[Insert date of publication in the Federal Register publication] [Insert Federal Register citation]	Amended to clarify volatile organic compound (VOC) control system and requirements at Kraft pulp mills. Conditional Approval.
26.11.14.07.	Control of NOx Emissions from Fuel Burning Equipment	03/03/14	[Insert date of publication in the	Regulation Added. Conditional Approval.

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
			<u>Federal Register publication]</u> <u>[Insert Federal Register citation]</u>	
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[FR Doc. 2016-20654 Filed: 8/29/2016 8:45 am; Publication Date: 8/30/2016]